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Total Number of Pages in This Submission

5

Attorney Docket Number

5653-481

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
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<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
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<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		<input type="checkbox"/> Remarks _____
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name

Neill R. Jetter

Signature

Date

August 13, 2004

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name

Neill R. Jetter

Signature

Date

August 13, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: HOLLOWAY et al.

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Application No.: 10/656,717

Examiner:

AUG 13 2004

Filed: September 4, 2003

Group Art Unit: 1754

December 15, 2003
(current date accorded)

For: METHOD OF PRODUCING NANOSIZED OXIDE POWDERS

OFFICIAL

CERTIFICATE UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being faxed to 703-872-9306 addressed to Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on August 13, 2004.


Neil R. JetterPETITION UNDER 37 CFR 1.181**VIA FACSIMILE 703-872-9306**

Mail Stop Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is a Petition under 37 CFR 1.181 in connection with the above-identified patent application (the "Application"). This Petition requests that the Application be accorded a filing date of September 4, 2003, since all the requirements of 37 C.F.R. § 1.53 were met when the above-referenced application was originally filed on September 4, 2003. This Petition also includes the prescribed petition fee of \$130.00.

Applicants received a Notice of Incomplete Nonprovisional Application from the U.S. Patent Office, dated November 28, 2003 ("Notice"), wherein it was noted that the Application was filed on September 4, 2003 and did not include drawings. The Notice properly listed the filing date of the Application as September 4, 2003. In response to the Notice, even though clearly not necessary for the understanding of the subject matter sought to be patented, on December 11, 2003, Applicants filed 10 sheets of drawings with the U.S. Patent and Trademark

(WP193687;1)

Office. The drawings show structural characteristics (e.g. XRD, SEM) of the powder particles formed using the claimed invention.

Applicants then received a Filing Receipt which indicated that the filing date of the Application was changed to December 15, 2003, replacing the correct filing date of September 4, 2003 that was originally accorded to the Application and as noted above, was also correctly noted in the Notice.

35 U.S.C. 113 (first sentence) as well as 37 CFR 1.81 and MPEP 608.02 require drawings "where necessary for the understanding of the subject matter sought to be patented."

The invention is entitled Method of Producing Nanosized Oxide Powders and relates to a method of forming metal oxide powders. Claim 1 which is the only independent claim recites the following:

1. A method of forming metal oxide powders, comprising the steps of:
solid state mixing of at least one metal nitrate salt and at least one reducing organic acid,
and
heating said metal nitrate salt and said reducing organic acid, wherein a metal oxide powder is formed.

The 10 sheets of drawings comprising Figures 1(a) to 5(b) are all data (e.g. XRD, SEM) showing the structure of the metal oxide powder formed using the claimed method. The structure of the powder is clearly not "necessary for the understanding of the subject matter to be patented," since the subject matter to be claimed is a Method of Producing Nanosized Oxide Powders. The claimed subject matter is thus independent of the structure of the metal oxide powder.

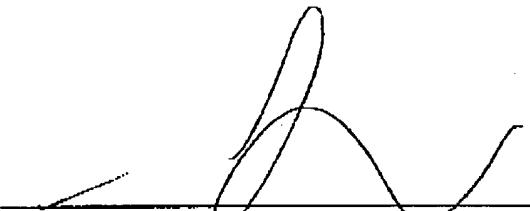
Therefore, the drawings are clearly not necessary for the understanding of the subject matter to be patented. Accordingly, Applicants respectfully request the filing date of September 4, 2003 be re-accorded to the Application.

{WP193687;1}

Applicants invite the Examiner to call the undersigned (direct line (561) 671-3662) if it is believed that a telephonic interview would expedite issuance of a favorable finding to the instant Petition.

Date: August 13, 2004

Docket No. 5853-461



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(WP193687;1)